



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,505	07/31/2001	Jean-Pierre Rene Leon	01394/TL	4805

1933 7590 01/22/2004

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

EXAMINER

SCHIFFMAN, JORI

ART UNIT	PAPER NUMBER
----------	--------------

3679

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s) SW	
	09/890,505	LEON ET AL.	
	Examiner	Art Unit	
	Jori R. Schiffman	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 27-33 is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-12, 15, 16, 19-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) 6-8, 13, 14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 11, 12, 15, 16, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Giannuzzi (US 5447005).

Regarding claim 1, Giannuzzi discloses a fastening device comprising a male part 23 and a female part 10 capable of being selectively inserted into bores passing through a stack of at least 2 panels 22, 21 in which the female part is an elastic clip comprising a cap 10 from which extends a hollow foot having different minimum and maximum internal transverse dimensions, wherein the male part comprises a head 24 extended by a barrel 23 being selectively inserted into the hollow foot through an opening 11 in the cap, and the fastener having an unlocked configuration in which the foot has a reduced transverse dimension (between the bottom of P1 and P2) and a locked configuration in which the foot is subjected by the barrel to a radial elastic expansion, and the cap is formed by a spring blade bent back on itself (col. 4, l. 7-11) and comprising at least one inner branch 10a joined on the hollow foot and one outer branch 10 having a medium portion into which the opening 11 of the cap is pierced, and in that the inner and outer branches are apart from one another at least for the unlocked position and include a gap

Art Unit: 3679

between the inner and outer branches (see Fig. 6) which allows for an elastic deformation of at least part of the outer branch when the foot moves from its unlocked configuration to its locked configuration, the medium portion being elastically depressed under the effect of the head of the male part when the foot is in its locked configuration.

Referring to claim 2, Giannuzzi discloses the hollow foot comprising a plurality of prongs 12, 13 having respective attached ends by which these prongs are joined to the cap, and respective radially converging free ends which between them define the minimum internal transverse dimension of the foot.

As to claim 3, Giannuzzi discloses the male and female parts comprising at least first 23 and second 15, 17 respective surface features disposed facing one another for an extreme relative axial position of the male and female parts, selectively obtained by completely inserting the barrel into the foot.

Regarding claims 4 and 25, Giannuzzi discloses the first surface feature being formed by a radial protuberance, screw thread 23, of the barrel.

Regarding claim 11, Giannuzzi discloses the clip of the fastener being produced by cutting, bending, and heat-treating a metal blank (col. 4, l. 7-11).

As to claim 12, Giannuzzi discloses the clip being made of steel (col. 4, l. 7-8).

In regards to claim 15, Giannuzzi discloses a the barrel having a collar, which is read as one of the screw threads 23, inserted into the opening of the cap counter to an elastic force and rendering the male and female parts inseparable from each other.

Art Unit: 3679

Referring to claim 16, Giannuzzi discloses the head 24 pressing against the outer branch 10 for the locked configuration of the foot, and moving the inner and outer branches toward one another.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giannuzzi (US 5447005) as applied to claim 1 above, and further in view of Osterland et al. (US 4630338).

As to claim 9, Giannuzzi discloses the claimed fastener except for the opening of the cap having at least one elastic radial tab to cooperate with the barrel. Osterland teaches at least one elastic radial tab 16, 18 in the opening of the cap to cooperate with a male part. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include at least one elastic radial tab in the opening of Giannuzzi's fastener as disclosed in Osterland to receive the male part of the fastener to lockingly secure the male part to the female part.

Regarding claim 10, Giannuzzi discloses the claimed fastener except for the inner branch of the cap including at least two internal elastic tabs capable of applying pressure to the stack of panels in the locked configuration of the foot. Osterland teaches at least

Art Unit: 3679

two internal elastic tabs 24, 26 on the inner branch of the cap. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include at least two internal elastic tabs on the cap of the fastener of Giannuzzi as disclosed in Osterland to apply pressure to the stack of panels for a more secure connection.

5. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giannuzzi (US 5447005).

As to claims 19-22, the specific dimensions of the thickness of the stack of panels and bores in the panels would be recognized depending on the particular application of the invention.

6. Claims 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giannuzzi (US 5447005) in view of Asami et al. (US 5568675).

Regarding claim 24, Giannuzzi discloses a fastening device comprising a male part 23 and a female part 10 capable of being inserted to bores passing through a stack of at least 2 panels 22, 21, wherein the female part is an elastic clip comprising a cap 10 from which extends a hollow foot having different minimum and maximum internal transverse dimensions, wherein the male part comprises a head 24 extended by a barrel 23 being selectively inserted into the hollow foot through an opening 11 in the cap, the hollow foot and the barrel having an unlocked configuration with respect to each other in which the foot has a reduced transverse dimension (between the bottom of P1 and P2) and a locked configuration in which the foot is subjected by the barrel to a radial elastic expansion, wherein the cap is formed by a spring blade bent back on itself (col. 4, l. 7-11)

Art Unit: 3679

and comprising at least one inner branch 10a joined on the hollow foot and one outer branch 10 into which the opening 11 of the cap is pierced, and in that the inner and outer branches are apart from one another at least for the unlocked position and include a gap between the inner and outer branches (see Fig. 6) which allows for an elastic deformation of at least part of the outer branch when the foot moves from its unlocked configuration to its locked configuration, wherein the hollow foot comprises a plurality of prongs 12, 13 having respective attached ends by which these prongs are joined to the cap, and respective radially converging free ends which between them define the minimum internal transverse dimension of the foot, wherein the male and female parts comprise at least first 23 and second 15, 17 respective surface features disposed facing one another for an extreme relative axial position of the male and female parts, selectively obtained by completely inserting the barrel into the foot, the first and second features mutually cooperating to maintain the male and female parts in the extreme relative axial position, and the first surface feature is formed by radial protuberances 23. Giannuzzi fails to disclose the radial protuberance being in the form of lugs each comprising a shoulder on which a blade bears when the male and female parts are in their locked configuration. As to claim 26, Giannuzzi discloses the claimed fastener as above except for the radial protuberance of the barrel being a lug. Asami teaches protuberances in the form of lugs 6 comprising a shoulder on which a blade bears when the male and female parts are in their locked configuration (see Figs. 6 and 7). It would have been obvious at the time the invention was made to a person of ordinary skill in the art to replace the screw thread 23

Art Unit: 3679

of Giannuzzi with lugs as disclosed in Asami so the male and female parts will snap into place preventing disengagement in the locked position (see col. 4, l. 12-19).

Allowable Subject Matter

7. Claims 23 and 27-33 are allowed. However, it is noted that claims 27, 28, and 32 contain the phrase “characterized in” which puts the claims in Jepson format. Applicant may correct these claims if he wishes.

8. Claims 6-8, 13, 14, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant argues that “the examiner is incorrect...in contending that Giannuzzi discloses a fastening device comprising a male part 23 and a female part 10 selectively inserted into bores passing through a stack of at least 2 panels 22, 21”. In response, the examiner disagrees because these structural limitations are clearly disclosed in the Giannuzzi reference, as described in the above rejection. As clarified in the previous Office Action, it is noted that the features upon which applicant relies (i.e., Giannuzzi does not solve the problem that the present invention seeks to resolve, resistance to vibrations) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also,

Art Unit: 3679

resistance to vibration is simply a side effect of the structure of the present invention, not a structural limitation, and therefore is not given patentable weight.

10. Applicant also argues that in Giannuzzi, the hook like feature 22 is interposed between the head 24 and the cap and therefore “it is impossible for the cap to be resiliently deformed by the head 24 of the male part in the same manner as the present invention”, and that the head of the anchor 10 cannot be resiliently deformable. In response, the examiner disagrees because when the fastener 23 is fastened onto the panel the head 24 is pushed against the hook like feature 22, which elastically deforms the cap 10. Again, it is noted that the feature upon which applicant relies (i.e., the head directly contacting the cap) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Since the claims simply recites “the medium portion being elastically depressed under the effect of said head of said male part”, the reference continues to read on the claim and the rejection is therefore maintained. Furthermore, the head of the anchor 10 must be resiliently deformable since it is constructed of a spring that is bent back on itself, which inherently has deformable properties.

11. Applicant argues that the rejection of claim 24 is improper because “in the present invention, the barrel of the male part has a non-circular cross section which is recited in claim 24 as being defined by a minimum and maximum internal transverse dimensions”. In response the examiner would like to point out that “being defined by a minimum and maximum internal transverse dimensions” is not equivalent to “non-circular cross section”. Again, applicant is reminded that “although the claims are interpreted in light of the specification, limitations from

Art Unit: 3679

the specification are not read into the claims". See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Giannuzzi's barrel is defined by a minimum and maximum internal transverse dimensions and therefore continues to read on the claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jori R. Schiffman whose telephone number is 703-305-4805. The examiner can normally be reached on M-Th, and every other Friday.

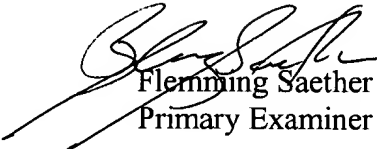
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3679

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Jori R. Schiffman
Examiner
Art Unit 3679

JS



Flemming Saether
Primary Examiner